

AMENDED IN SENATE APRIL 12, 2004

AMENDED IN SENATE MARCH 23, 2004

SENATE BILL

No. 1272

Introduced by Senator Ortiz

February 13, 2004

An act to amend Section 26909 of, and to add Chapter 7.5 (commencing with Section 60210) to Division 1 of Title 6 of, the Government Code, and to repeal Section 20201 of the Water Code, relating to special districts, *and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1272, as amended, Ortiz. Special districts.

(1) Existing law requires the county auditor to either make or contract for an annual audit of the accounts and records of every special purpose district within the county for which an audit is not otherwise provided.

This bill would require these audits to be performed in accordance with ~~General Accounting Office~~ *government auditing* standards for financial and compliance audits and would impose various other requirements on these audits, thus imposing a state-mandated local program. The bill would require the Controller to review the audits under specified procedures *and would make an annual appropriation to the Controller from the General Fund of up to \$600,000 for that purpose.*

(2) Existing law provides for the establishment and operation of various special districts, the composition of their governing boards, and the payment to governing board members for attending meetings and

performing other duties. Existing law also proscribes various activities by public officers as conflicts of interest and incompatible activities.

~~This bill would prohibit any member of the governing board of a special district from having any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of his or her duties in the public interest or responsibilities as prescribed by law, and would set forth specific prohibitions. The bill also would make the violation of any of these provisions a misdemeanor, thereby creating a crime and imposing a state-mandated local program.~~

~~This bill would additionally require special district governing boards to conduct legal and ethical ethics orientation sessions that governing board members would be required to attend.~~

This bill would also establish whistle-blower protections for members or employees who make protected disclosures of improper governmental activities, as specified.

~~This bill would limit define the meetings for which compensation may be paid to members of governing boards of special districts to not exceed \$100 per day for meetings or requested service to the board not to exceed 6 days per month and would limit travel and per diem expenses, as specified.~~

This bill would require that for members who first take office on or after January 1, 2005, participation in group life insurance and health and welfare benefits shall be on a self-pay basis and provide that those members may not receive retirement benefits from the district.

(3) Existing law provides that compensation of members of the governing board of any water district may not exceed \$100 per day for attendance at meetings.

This bill would repeal that provision.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.



With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 26909 of the Government Code is
2 amended to read:

3 26909. (a) The county auditor shall either make or contract
4 with a certified public accountant or public accountant to make an
5 annual audit of the accounts and records of every special purpose
6 district within the county for which an audit by a certified public
7 accountant or public accountant is not otherwise provided. In each
8 case, the minimum requirements of the audit shall be prescribed
9 by the Controller and shall conform to ~~generally accepted~~
10 *government* auditing standards.

11 (b) Where an audit of a district's accounts and records is made
12 by a certified public accountant or public accountant, the
13 minimum requirements of the audit shall be prescribed by the
14 Controller and shall conform to ~~generally accepted~~ *government*
15 auditing standards, and a report thereof shall be filed with the
16 Controller and with the county auditor of the county in which the
17 district is located. The report shall be filed within 12 months of the
18 end of the fiscal year or years under examination.

19 (c) Any costs incurred by the county auditor, including
20 contracts with, or employment of, certified public accountants or
21 public accountants, in making an audit of every special purpose
22 district pursuant to this section shall be borne by the district and
23 shall be a charge against any unencumbered funds of the district
24 available for the purpose.

25 (d) For joint districts lying within two or more counties, the
26 above provisions shall apply to the auditor of the county in which
27 the treasury is located.

28 (e) The county controller, or ex officio county controller, shall
29 effect this section in those counties having a county controller, or
30 ex officio county controller.

(f) A special district may, by unanimous request of the governing board of the special district, with unanimous approval of the board of supervisors, replace the annual audit with a biennial audit covering a two-year period or, if the district's annual budget does not exceed an amount specified by the board of supervisors, an audit covering a five-year period.

Notwithstanding the foregoing provisions of this section to the contrary, districts shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

(g) A board of supervisors may substitute a financial review in accordance with definitions promulgated by the United States General Accounting Office for the audit of a special district as required by this section, provided that all of the following conditions are met:

(1) The board of supervisors is the governing board of the district.

(2) The special districts revenues and expenditures are transacted through the county's financial systems.

(3) The special district's annual revenues do not exceed one hundred thousand dollars (\$100,000).

(h) It is the intent of the Legislature in amending this section to promote accountability over public revenues by establishing a new program to review and report on financial and compliance audits of special districts. It is further the intent of the Legislature that the Controller shall have the primary responsibility for implementing and overseeing this program.

(1) Financial and compliance audits shall be performed in accordance with ~~General Accounting Office~~ *government auditing* standards for financial and compliance audits. The audit guide prepared by the Controller shall be used in the performance of these audits. The Controller shall also require that special district auditors ~~on a biennial basis~~ conduct testing of transactions considered high risk for abuse. The additional testing ~~may either be performed during a special district's regular financial statement audit or as a separate audit~~ *shall occur during each district's audit cycle's regular financial statement audit or as a separate audit within that cycle*. Special districts shall provide funding for all costs associated with conducting the audit of high-risk transactions. Every audit report shall specifically and separately

1 address each of the compliance requirements included in the audit
2 guide, stating whether or not the district is in compliance with
3 those requirements. For each compliance requirement included in
4 the audit guide, every audit report shall further state that the
5 suggested audit procedures included in the audit guide for that
6 requirement were followed in the making of the audit, if that is the
7 case, or, if not, what other procedures were followed. If a special
8 district is not in compliance, the audit report shall state all
9 instances of noncompliance. An ~~independent~~ auditor shall not
10 engage in financial or compliance audits unless, within three years
11 of commencing the first of the audits, and every successive three
12 years thereafter, the auditor completes a quality control review in
13 accordance with ~~General Accounting Office~~ *government auditing*
14 standards. This review shall be conducted by the Controller. The
15 time period between commencement of the first audit, or
16 completion of a quality control review and completion of a
17 subsequent quality control review, shall be calculated from the
18 first day of the month following commencement of the audit or
19 completion of the quality control review. To determine the
20 practicability and effectiveness of the audits and audit guide, the
21 Controller shall, on an annual basis, review and monitor the audit
22 reports ~~performed by independent auditors~~. The Controller shall
23 determine whether audit reports are in conformance with reporting
24 provisions of ~~General Accounting Office~~ *government auditing*
25 standards and shall notify each special district and the auditor
26 regarding each determination. The special district contracting for
27 the financial and compliance audit shall include a statement that
28 provides the Controller access to audit working papers.

29 (2) (A) The Controller may perform quality control reviews of
30 audit working papers to determine whether audits are performed
31 in conformity with paragraph (1). The Controller shall
32 communicate the results of his or her reviews to the ~~independent~~
33 auditor, and the special district for which the review was
34 performed, and shall review his or her findings with the
35 ~~independent~~ auditor.

36 (B) Prior to the performance of any quality control reviews, the
37 Controller shall develop and publish guidelines and standards for
38 those reviews. Pursuant to the development of those guidelines
39 and standards, the Controller shall provide opportunity for public
40 comment.

1 (C) (i) ~~The~~ *Notwithstanding any other provision of this code,*
2 *the* Controller shall conduct a quality control review of the audit
3 working papers of the ~~independent~~ auditor who performed the
4 audits for a special district if either of the following applies:

5 (I) The Controller has reason to believe that public revenues
6 were not appropriately utilized.

7 (II) There is reason to believe that a special district report is
8 false, incomplete, or incorrect.

9 (ii) If the quality control review of the Controller indicates that
10 the audit was conducted in a manner that may constitute
11 unprofessional conduct as defined pursuant to Section 5100 of the
12 Business and Professions Code, including, but not limited to, gross
13 negligence resulting in a material misstatement in the audit, the
14 Controller shall refer the case to the California Board of
15 Accountancy. If the California Board of Accountancy finds that
16 the ~~independent~~ auditor conducted an audit in an unprofessional
17 manner, the ~~independent~~ auditor is prohibited from performing
18 any audit of a special district for a period of three years, in addition
19 to any other penalties that the California Board of Accountancy
20 may impose.

21 (D) In any matter that is referred to the California Board of
22 Accountancy under clause (ii), the Controller may suspend the
23 ~~independent~~ auditor from performing any special district audits
24 pending final disposition of the matter by the California Board of
25 Accountancy if the Controller gives the ~~independent~~ auditor notice
26 and an opportunity to respond to that suspension. The ~~independent~~
27 auditor shall be given credit for any period of suspension if the
28 California Board of Accountancy prohibits the ~~independent~~
29 auditor from performing audits of the special district under clause
30 (ii). In no event may the Controller suspend an ~~independent~~ auditor
31 under this subdivision for a period of longer than three years.

32 (E) The legislative body of a special district may refer an
33 ~~independent~~ auditor of a special district to the California Board of
34 Accountancy for action pursuant to subparagraph (C) if an audit
35 of a special district was conducted in a manner that may constitute
36 unprofessional conduct as defined by Section 5100 of the Business
37 and Professions Code, including, but not limited to, gross
38 negligence resulting in a material misstatement in the audit.

39 (3) The Controller shall conduct any additional audits that are
40 necessary to carry out any of his or her statutory duties and

responsibilities. Nothing in this section shall be construed to authorize any special district, or any subcontractor or subrecipient, to constrain, in any manner, the Controller from carrying out any additional audits. However, to the extent that the required financial and compliance audits *do not* provide the Controller with the information necessary to carry out his or her responsibilities, the Controller shall plan additional audits as appropriate to avoid any unnecessary duplication of audit efforts. In performing these additional audits, the Controller shall, to the extent deemed appropriate under the circumstances, build upon the work performed during the required financial and compliance audit. The Controller shall receive reimbursement from the special districts for the costs of these additional audits.

(i) *The sum of up to six hundred thousand dollars (\$600,000) is hereby appropriated annually from the General Fund to the Controller as necessary to provide sufficient funding for one audit manager, four audit specialists, and other expenses to implement and operate the special district oversight program.*

SEC. 2. Chapter 7.5 (commencing with Section 60210) is added to Division 1 of Title 6 of the Government Code, to read:

CHAPTER 7.5. SPECIAL DISTRICT GOVERNING BOARDS

Article 1. General Provisions

60210. (a) “Member” as used in this chapter, means a member of the governing board of a special district.

(b) “Special district,” as used in this chapter, means an agency of the state that is formed pursuant to a general or special act for the local performance of governmental or proprietary functions within limited boundaries and is governed by an elected governing board. A special district does not include the state, a county, a city, a school district, ~~or a community services district~~ *a community facilities district, an air quality district or other regulatory district having responsibilities related to the protection of public health, or a joint powers authority consisting solely of cities, counties, or one or more city and one or more county.*

60211. Notwithstanding any other provision of law, the governing board of every special district shall comply with the requirements of this chapter.

Article 2.—Conflicts of Interest

~~60215. No person, while serving as a member of the governing board of a special district, shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state. Members shall accept the obligation to act in a way that will serve the public interest, honor the public trust, and perform all official responsibilities with the highest sense of integrity.~~

~~60216. No elected member shall do any of the following:~~

~~(a) Accept other employment that he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties.~~

~~(b) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or use any of this information for the purpose of pecuniary gain.~~

~~(c) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of monetary value, or portion thereof, in consideration of his or her appearing, agreeing to appear, or taking any other action on behalf of another person before any state board or agency.~~

~~The prohibition contained in this subdivision shall not apply to a partnership or firm of which the elected official is a member if the elected official does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from the transaction.~~

~~(d) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source.~~

~~60217. A member subject to this chapter has an interest that is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this article, if he or she has~~

1 ~~reason to believe or expect that he or she will derive a direct~~
2 ~~monetary gain or suffer a direct monetary loss, as the case may be,~~
3 ~~by reason of his or her official activity.~~

4 ~~60218. A member does not have an interest that is in~~
5 ~~substantial conflict with the proper discharge of his or her duties~~
6 ~~in the public interest and of his or her responsibilities as prescribed~~
7 ~~in the laws of this state or a personal interest, arising from any~~
8 ~~situation, within the scope of this chapter, if any benefit or~~
9 ~~detriment accrues to him or her as a member of a business,~~
10 ~~profession, occupation, or group to no greater extent than any~~
11 ~~other member of that business, profession, occupation, or group.~~

12 ~~60218.5. A person subject to the provisions of this article shall~~
13 ~~not be deemed to be engaged in any activity which is in substantial~~
14 ~~conflict with the proper discharge of his or her duties in the public~~
15 ~~interest and of his or her responsibilities as prescribed in the laws~~
16 ~~of this state, or have a personal interest, arising from any situation,~~
17 ~~within the scope of this article, solely by reason of any of the~~
18 ~~following:~~

19 ~~(a) His or her relationship to any potential beneficiary of any~~
20 ~~situation is one that is defined as a remote interest by Section 1091~~
21 ~~or is otherwise not deemed to be a prohibited interest by Section~~
22 ~~1091.1 or 1091.5.~~

23 ~~(b) Receipt of a campaign contribution regulated, received,~~
24 ~~reported, and accounted for pursuant to Title 9 (commencing with~~
25 ~~Section 81000), so long as the contribution is not made on the~~
26 ~~understanding or agreement, in violation of law, that the person's~~
27 ~~vote, opinion, judgment, or action will be influenced thereby.~~

28 ~~60219. Every person who knowingly and willfully violates~~
29 ~~any provision of this article is guilty of a misdemeanor.~~

30
31 *Article 3.—Ethics*
32

33
34 *Article 2. Ethics*
35

36 ~~60220. (a) The governing board of each special district shall~~
37 ~~conduct at least annually an orientation course of the relevant~~
38 ~~statutes and regulations governing official conduct and the~~
39 ~~relevant ethical issues and laws relating to lobbying in consultation~~
40 ~~with, or pursuant to standards established by, the Fair Political~~

~~Practices Commission.~~ provide board members and senior management staff with the ability and resources to access at least annually an orientation course of the relevant statutes and regulations governing official conduct and the relevant ethical issues and laws relating to lobbying in consultation with, or pursuant to standards established by, the Fair Political Practices Commission. Board members may comply with this section through online training courses, videotaped training, or attendance at regional or statewide in-person training. The orientation course shall cover, but not be limited to, the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)), Sections 1090, 1091, 1126, 3205, and 87105, and other relevant laws governing official conduct.

(b) At least once every two years, each member shall attend a course described in subdivision (a).

60221. For the purposes of this article:

(a) “Employee” means any individual who is a member of the governing board of a special district or employed by a special district.

(b) “Improper governmental activity” means any activity by a special district or by an employee that is undertaken in the performance of the employee’s official duties, whether or not that action is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (2) is ~~economically wasteful, or involves gross misconduct, incompetency, or inefficiency.~~ involves gross misconduct or gross negligence.

(c) “Person” means any individual, corporation, trust, association, any state or local government, or any agency or instrumentality of any of the foregoing.

(d) “Protected disclosure” means any good faith communication that discloses or demonstrates an intention to disclose information that may evidence (1) an improper governmental activity or (2) any condition that may significantly threaten the health or safety of employees or the public if the

1 disclosure or intention to disclose was made for the purpose of
2 remedying that condition.

3 (e) “Illegal order” means any directive to violate or assist in
4 violating a federal, state, or local law, rule, or regulation or any
5 order to work or cause others to work in conditions outside of their
6 line of duty that would unreasonably threaten the health or safety
7 of employees or the public.

8 60221.5. (a) An employee may not directly or indirectly use
9 or attempt to use the official authority or influence of the employee
10 for the purpose of intimidating, threatening, coercing,
11 commanding, or attempting to intimidate, threaten, coerce, or
12 command any person for the purpose of interfering with the rights
13 conferred pursuant to this article.

14 (b) For the purpose of subdivision (a), “use of official authority
15 or influence” includes promising to confer, or conferring, any
16 benefit; effecting, or threatening to effect, any reprisal; or taking,
17 or directing others to take, or recommending, processing, or
18 approving, any personnel action, including, but not limited to,
19 appointment, promotion, transfer, assignment, performance
20 evaluation, suspension, or other disciplinary action.

21 (c) Any employee who violates subdivision (a) may be liable
22 in an action for civil damages brought against the employee by the
23 offended party.

24 (d) Nothing in this section shall be construed to authorize an
25 individual to disclose information otherwise prohibited by or
26 under law.

27 60222. The county auditor of the county in which the special
28 district is located, or has its primary office, shall administer the
29 provisions of this article and shall investigate and report on
30 improper governmental activities. If, after investigating, the
31 county auditor finds that an employee may have engaged or
32 participated in improper governmental activities, the county
33 auditor shall send a copy of the investigative report to the
34 employee’s appointing power. Within 60 days after receiving a
35 copy of the county auditor’s investigative report, the appointing
36 power shall either serve a notice of adverse action upon the
37 employee who is the subject of the investigative report or set forth
38 in writing its reasons for not taking adverse action.

39 60222.5. Upon receiving specific information that any
40 employee or special district has engaged in an improper

1 governmental activity, the county auditor may conduct an
2 investigative audit of the matter. The identity of the person
3 providing the information that initiated the investigative audit
4 shall not be disclosed without the written permission of the person
5 providing the information unless the disclosure is to a law
6 enforcement agency that is conducting a criminal investigation.

7 60223. (a) If the county auditor determines that there is
8 reasonable cause to believe that an employee or special district has
9 engaged in any improper governmental activity, he or she shall
10 report the nature and details of the activity to the head of the
11 employing agency, the appropriate appointing authority, or if the
12 county auditor has reason to conclude that the activity may involve
13 a violation of criminal law, to the district attorney or county
14 council, as the case may be.

15 (b) In any case in which the county auditor submits a report of
16 alleged improper activity to the head of the employing agency or
17 appropriate appointing authority, that individual shall report to the
18 county auditor with respect to any action taken by the individual
19 regarding the activity, the first report being transmitted no later
20 than 30 days after the date of the county auditor's report and
21 monthly thereafter until final action has been taken.

22 (c) Every investigative audit shall be kept confidential, except
23 that the county auditor may issue any report of an investigation that
24 has been substantiated, keeping confidential the identity of the
25 individual or individuals involved, or release any findings
26 resulting from an investigation conducted pursuant to this article
27 that is deemed necessary to serve the interests of the public.

28 (d) This section shall not limit any authority conferred upon the
29 Attorney General or any other department or agency of
30 government to investigate any matter.

31 60223.5. (a) An employee or applicant for employment with
32 a special district who files a written complaint with his or her
33 supervisor, manager, or the appointing power alleging actual or
34 attempted acts of reprisal, retaliation, threats, coercion, or similar
35 improper acts prohibited by Section 60221.5, may also file a copy
36 of the written complaint with the personnel department of the
37 special district, together with a sworn statement that the contents
38 of the written complaint are true, or are believed by the affiant to
39 be true, under penalty of perjury. The complaint filed with the



1 department, shall be filed within 12 months of the most recent act
2 of reprisal complained about.

3 (b) Any person who intentionally engages in acts of reprisal,
4 retaliation, threats, coercion, or similar acts against an employee
5 or applicant for employment for having made a protected
6 disclosure, is subject to a fine not to exceed ten thousand dollars
7 (\$10,000) and imprisonment in the county jail for a period not to
8 exceed one year.

9 (c) In addition to all other penalties provided by law, any person
10 who intentionally engages in acts of reprisal, retaliation, threats,
11 coercion, or similar acts against an employee or applicant for
12 employment for having made a protected disclosure shall be liable
13 in an action for damages brought against him or her by the injured
14 party. Punitive damages may be awarded by the court where the
15 acts of the offending party are proven to be malicious. Where
16 liability has been established, the injured party shall also be
17 entitled to reasonable attorney's fees as provided by law. However,
18 any action for damages shall not be available to the injured party
19 unless the injured party has first filed a complaint with the
20 personnel department of the special district pursuant to
21 subdivision (a), and the department has issued, or failed to issue,
22 findings.

23 (d) This section is not intended to prevent an appointing power,
24 manager, or supervisor from taking, directing others to take,
25 recommending, or approving any personnel action or from taking
26 or failing to take a personnel action with respect to any employee
27 or applicant for employment if the appointing power, manager, or
28 supervisor reasonably believes any action or inaction is justified
29 on the basis of evidence separate and apart from the fact that the
30 person has made a protected disclosure as defined in subdivision
31 (b) of Section 60221.

32 (e) In any civil action or administrative proceeding, once it has
33 been demonstrated by a preponderance of evidence that an activity
34 protected by this article was a contributing factor in the alleged
35 retaliation against a former, current, or prospective employee, the
36 burden of proof shall be on the supervisor, manager, or appointing
37 power to demonstrate by clear and convincing evidence that the
38 alleged action would have occurred for legitimate, independent
39 reasons even if the employee had not engaged in protected
40 disclosures or refused an illegal order. If the supervisor, manager,

1 or appointing power fails to meet this burden of proof in an adverse
2 action against the employee in any administrative review,
3 challenge, or adjudication in which retaliation has been
4 demonstrated to be a contributing factor, the employee shall have
5 a complete affirmative defense in the adverse action.

6 (f) Nothing in this article shall be deemed to diminish the
7 rights, privileges, or remedies of any employee under any other
8 federal or state law or under any employment contract or collective
9 bargaining agreement.

10 60224. If the special district personnel department determines
11 that there is a reasonable basis for an alleged violation or finds an
12 actual violation of Section 60221.5, it shall transmit a copy of the
13 investigative report to the county auditor. All working papers
14 pertaining to the investigative report shall be made available under
15 subpoena in a civil action.

16
17 ~~Article 4.—~~

18
19 *Article 3. Compensation and Benefits*

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21 60225. (a) Notwithstanding any other provision of law, the
22 governing board of any special district may by ordinance provide
23 compensation to members of the governing board, unless any
24 compensation is prohibited in its principal act, in an amount not to
25 exceed one hundred dollars (\$100) per day for each day's
26 attendance at board meetings, as defined in Section 54952.2, and
27 noticed pursuant to Section 54954.2, or for each day's service
28 rendered as a member of the board by request of the board, not to
29 exceed six days per month.

30 (b) Employees of the district and members of the board ~~may not~~
31 ~~be reimbursed for any costs that exceed the amounts and the types~~
32 ~~of reimbursements for travel and per diem expenses otherwise~~
33 ~~authorized for state employees.~~ *shall be reimbursed based on the*
34 *Internal Revenue Service accountable plan guidelines, not to*
35 *exceed standard travel reimbursement for state employees.*

36 (c) Any advance payments or reimbursements made to
37 members for authorized expenses shall be supported by receipts
38 for the actual amount of the expenses.

39 60226. (a) Notwithstanding Article 1 (commencing with
40 Section 53200) of Chapter 2 of Part 1 of Division 2, or any other

provision of law, the governing board of a special district by itself, or as a party to a joint exercise of powers agreement, may not provide group life insurance or health and welfare benefits, as those terms are defined in Section 53200 to any person first appointed to an appointment or first elected to a term of office that begins on or after January 1, 2005, unless the person participates on a self-pay basis.

(b) Notwithstanding any other provision of law, the governing board of a special district may not provide retirement benefits to any member first appointed or first elected to a term of office that begins on or after January 1, 2005.

~~Article 5.~~

Article 4. Audits

60230. (a) Special districts shall cause audits to be performed in compliance with Section 26909.

(b) In addition to the requirements of Section 26909, the governing board of a special district shall do all of the following:

(1) Require the auditor to meet directly with the governing board in an open session with the opportunity for public discussion of the auditor's findings consistent with the requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5).

~~(2) Change the auditors or accountants employed to conduct the audits every five years.~~

(2) *Prohibit a public accounting firm from providing audit services to a special district if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that special district in each of the six previous fiscal years. If the auditor-controller is performing these audits rather than a public accounting firm, then the lead auditor or coordinating principals performing the audit within the auditor-controller's office shall also comply with these requirements. The Controller may waive this requirement if he or she finds no otherwise eligible auditor is available to perform the audit. The 2005 calendar year is the base year for determining whether a rotation shall be implemented.*

(3) Revoke the authority of auditors or accountants to conduct audits of the special district for three years when an independent audit finds that the auditors or accountants failed to conduct a thorough and complete audit.

(c) The auditor or accountant shall promptly notify the Controller of any compliance violations.

(d) The Controller may audit any special district that is not in compliance with the prescribed standards at the expense of the special district.

SEC. 3. Section 20201 of the Water Code is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.